

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROBERT CARLSON, Personal Representative )	
of the Estate of Craig Carlson, )	
Plaintiff, )	
)    No. 1:08-cv-991	
-v-	)
)    Honorable Paul L. Maloney	
GRAND TRAVERSE COUNTY, )	
Defendant. )	
)	

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**ORDER DENYING MOTION FOR APPROVAL OF WRONGFUL DEATH  
SETTLEMENT AND DISTRIBUTION OF FUNDS**

Plaintiff Robert Carlson filed a motion for approval of the settlement in this lawsuit and for the distribution of funds. (ECF No. 429.) Because the settlement did not involve a claim for wrongful death, the motion is DENIED.

Craig Carlson was shot and killed by a member of a law enforcement team. When this lawsuit was filed, one of Plaintiff's claims was for excessive force, which resulted in Craig Carlson's death. That claim went to trial, and the jury found no cause of action. Plaintiff appealed both summary judgment decisions and decisions made at trial, and succeeded in part. The Sixth Circuit reversed this Court's resolution of several search and seizure claims that occurred before the tragic shooting. The excessive force claim that was resolved at trial, however, was not reversed.

On remand, the Court first had to resolve disputes between the parties about the scope of the remaining claims. (ECF No. 385.) Craig Carlson's death was not an issue that remained in the lawsuit. On the eve of trial, Plaintiff accepted Defendant's offer to settle the

remaining claims. Plaintiff is correct that Michigan's Wrongful Death Act requires a court to hold a hearing for the approval of any settlement and for distribution of the settlement funds. But, the Act does not apply to this settlement. Subsection 5 of the Act states that "for the purpose of settling *a claim for damages for wrongful death* where an action for those damages is pending," and where the personal representative files a motion "asking leave of the court *to settle the claim,*" the court shall hold a hearing. Mich. Comp. Law § 600.2922(5) (emphasis added). Plaintiff had no pending claim for wrongful death and the parties did not settle a claim for wrongful death. Therefore, the Court need not hold a hearing to approve the settlement.

**IT IS SO ORDERED.**

Date: September 7, 2018

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge